Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
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Delete, Delete, Delete	)	GN Docket No. 25-133

Comments of Mescalero Apache Telecom, Inc.

Mescalero Apache Telecom, Inc. (MATI) files these comments in response to the Public Notice (*PN*) released by the Federal Communications Commission's (FCC or Commission) Consumer and Governmental Affairs Bureau (Bureau) in the above-captioned proceeding. The *PN* seeks input on "identifying FCC rules for the purpose of alleviating unnecessary regulatory burdens.".[1]

MATI is a regulated rural independent local exchange carrier (ILEC) operating in New Mexico and provides voice and broadband services throughout the Mescalero Apache Reservation. MATI is 100% owned by the Mescalero Apache Tribe, a sovereign Tribal government located in south central New Mexico. MATI is an Eligible Telecommunications Carrier (ETC) and receives federal high-cost support via the Connect America Fund Broadband Loop Support (CAF BLS) program.

SUMMARY

MATI appreciates the Commission's ongoing efforts to identify and, where possible, relieve regulatory burdens on small providers, especially those serving Tribal areas. The categories listed in the *PN* are cost-benefit considerations, experience gained from implementation of the rule, marketplace and technological changes, regulation as barrier to entry, changes in the broader regulatory context, changes

[1] *In the Matter of Establishing a 5G Fund for Rural America.,* GN Docket No. 20-32, Second Further Notice of Proposed Rulemaking (FCC 24-89, rel. August 29, 2024) (F*NPRM*)

in, or other implications of, the governing legal framework, and other considerations relevant to the retrospective review of FCC rules. The Commission also invites more general comment on rules that should be eliminated on other grounds. Together, these categories should form a good framework to begin a comprehensive review of FCC rules, the result of which will, hopefully, be a better balance of regulatory needs and costs.

While MATI will provide input related to certain rules and related costs, there is another issue the FCC should consider during this process – the issue of what MATI will define for purposes of these comments as "unfunded mandates." In essence, unfunded mandates consist of major rule additions that place burdens on carriers without any related way to recover the costs of compliance. This is especially an issue for small rate-of-return regulated carriers that receive federal universal service support that either has been established at fixed levels (i.e., Alaska Connect Fund, Alternative Connect America Model) or is subject to budget caps that constrain cost recovery (i.e., CAF BLS, High Cost Loop Support). MATI will discuss this issue below as it relates to Tribally-owned carriers serving Tribal areas.

I. RULE REVISIONS AND ELIMINATION

MATI agrees that there are likely a significant number of FCC rules that could be revised or eliminated while maintaining the original public interest or regulatory purpose of the rule. For example, the requirement for Lifeline providers to file the annual Form 555[2] appears to be redundant as providers are also required to utilize the National Verifier system. In addition, there are rules where annual filings are required where reported information is unlikely to change from year to year. In these instances, MATI recommends the Commission consider reducing the frequency of these filings to when information or circumstances change. Examples of these types of filings are:

- Annual Form 502 – North American Numbering Plan numbering resource utilization/forecast report

[2] See 47 CFR § 54.416(b), which requires annual reporting of Lifeline customer re-certification efforts

- Annual CPNI Certifications[3]

MATI also notes that recently there have been a significant number of waiver petitions relating to a performance testing certification rule contained in Section 54.313(j)[4] of the Commission's rules.[5] Due to the sheer number of petitions filed on this one rule, it is clear that there is either a problem with the rule itself, or with the implementation and administration of the rule. The rule at issue requires a pro rata penalty based on the carrier's support for each day a certification is late. In the case of the recent spate of waiver petitions, the certification is related to the production and filing of quarterly performance testing data, which, during the period in question, was to be made either quarterly or annually by July 1. While MATI recognizes the need for enforcement mechanisms for certain FCC rules, to collectively take millions of dollars of universal service support from carriers for inadvertently missing an unclear certification deadline is not reasonable.[6] As a result, MATI urges the Commission to revisit this and other monetary penalty rules to ensure the penalty is commensurate with the alleged non-compliance issue.

II. UNFUNDED MANDATES

As stated above, MATI recommends the Commission investigate the burden of rules placed on rate-of-return regulated carriers where opportunities for cost recovery are constrained. In these cases, the Commission should consider a method or methods to reimburse such carriers for the time and expense of complying with these rules. For example, ACAM program recipients receive a fixed amount of support based on the Connect America Cost Model. As a result, any significant increase in federal

[3] 47 CFR § 64.2009
[4] 47 CFR § 54.313(j)
[5] MATI does not have a count of these petitions; however, MATI notes Tribally-owned carriers San Carlos Apache Telecommunications Utility, Inc. (SCATUI) and Gila River Telecommunications, Inc. (GRTI) filed petitions on March 14, 2025 and March 13, 2025, respectively
[6] MATI notes that for both SCATUI, GRTI, and likely a vast majority of the carriers filing petitions, the PMM requirement was not ignored and the carriers attempted the required performance testing. This makes the draconian penalty structure even more unreasonable and in need of change

regulatory burden and cost oftentimes cannot be recovered from any federal sources. In addition, carriers receiving CAF BLS are subject to annual budget caps that constrain the amount of support to levels that do not recover the costs assigned to that program.[7] There is also a monthly per-line cap on total universal service support that further serves to constrain participating carriers' ability to recover increased compliance costs.[8]

There are many rules that potentially cause a significant unfunded mandate on small carriers, especially those operating in Tribal areas. MATI will concentrate on the more onerous rules that have been adopted recently, and would therefore have a higher risk of causing cost recovery problems for CAF BLS and ACAM support recipients. Following is a sample of the types of rules that MATI believes warrant additional cost recovery considerations:

- Robocall Mitigation – there are numerous filings and certifications related to the FCC's Robocall Mitigation rules, including monthly interactions with the Robocall Mitigation Database (RMD), annual or as-needed filings and/or certifications, and continuous monitoring of call originations and terminations.
- Broadband Data Collection/High Cost Universal Broadband (HUBB)
- Performance Measures Testing
- Annual ETC reporting, FCC Form 481

Considering only the above rules, the burden on small RoR carriers receiving federal high cost support can be significant. The requirements related to broadband data collection and HUBB reporting, and PMM testing can easily require dozens of hours to comply[9] and can cost significant amounts of funds to fulfill, which includes gathering location data, availability and subscribership information, and interacting with two separate reporting systems. In addition, quarterly performance testing is a burdensome process, requiring carriers to gather information, perform testing quarterly, and ensure each

[7] 47 C.F.R § 54.901(d) and 54.1310(d), also see Budget Control Mechanism results at https://www.usac.org/high-cost/resources/rules-orders/budget-control-mechanism/
[8] 47 CFR § 54.302
[9] Based not only on the FCC's determination of burden hours for complying, but also based on MATI's outreach of other Tribally-owned companies and on practical experience

sample customer is still capable of being tested. These requirements, and more, can cause carriers significant burdens related to constrained cost recovery, and thus MATI urges the Commission to address this problem quickly via a separate proceeding.

CONCLUSION

MATI appreciates the Commission's ongoing efforts to ensure regulatory compliance at the federal level is not overly burdensome, and the costs incurred by carriers and the Commission are commensurate with the benefits to the public interest. While there are likely a large number of rules that can be revised or eliminated under the framework contained in the *PN*, MATI also urges the Commission to consider the concept of "unfunded mandates" to ensure carriers are able to recover the costs of FCC regulatory compliance. MATI looks forward to working with the Bureau and the Commission in addressing these important issues

Respectfully Submitted,

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Mescalero Apache Telecom, Inc.
April 11, 2025